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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/855,042 | 05/14/2001 | David A. Solin | 1220 | 8654 |
| 29855 | 7590 | 03/15/2006 | EXAMINER | |
| WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C. 20333 SH 249 SUITE 600 HOUSTON, TX 77070 | | | ROBINSON, GRETA LEE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2168 | |

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,042

Applicant(s)

SOLIN, DAVID A.

Examiner

Greta L. Robinson

Art Unit

2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21 are pending in the present application.
2. Claims 1, 8, and 15 have been amended.

Drawings

3. The drawings were received on January 4, 2006. These drawings are acceptable.

Claim Objections

4. Claim 5 is objected to because of the following informalities: a typographical error, note the limitation "even" should read "event" [see claim 5 line 10]. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3, 5-7, 10, and 12-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, the limitation at lines 7 through 15 are vague; the limitation “and” should read “or” at line 12, note limitation “at least one selected from” [claim 3 lines 7-8].

Regarding claim 5, the following claim language is vague: “requesting on a second event, following the first even, a second set of update information for the first set of information before any update information for the second set of information is requested following the first event” [note claim 5 lines 10-12]. The phrase is not clear; and an update with the second set of information does not appear to take place. Claims 6-7 are rejected based on dependency.

Regarding claim 10, lines 12-25 is vague. The examiner suggests changing the limitation “and” to “or” at line 19 because of the selection option limitation at line 13 (i.e. at least one selected from”).

Regarding claim 12, the following limitation is vague: “computer readable program code devices configured to cause a computer to request on a second event, following the first event, a second set of update information for the first set of information before any update information for the second set of information is requested following the first event” [note claim 12 lines 14-18]. Claims 13 and 14 are rejected based on dependency.

Regarding claim 15, the following limitation is vague and unclear: “a holding area manager for identifying and providing, at a size output, a size of a first set of update information received at an input” [see claim 15 line 2-3]. The meaning of the term “at a size output” is unclear. Claims 16-18 are rejected based on dependency.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 2, 4, 8, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falls et al. US Patent 5,950,198 in view of Miller et al. US Patent 6,535,911 B1.

Regarding claim 1, **Falls et al.** teaches a “method of updating a computer system” [note: Figure 2 UPDATE ROUTINE (74)], the method comprising:

“receiving a first set of update information, the first set of update information having a size” [note: Figure 5 step (87) “IS SIZE ≥ MINIMUM”; Fig. 6 step (92) “CALL

UPDATE ROUTINE TO CALCULATE SOURCE FILE KEY AND SIZE"; Fig. 6 step (100)
COPY SOURCE FILE TO TARGET COMPUTER"; col. 3 line 25 through col. 4 line 57;];

"requesting a second set of update information responsive to at least the size of
the first set of update information" [note: col. 7 lines 21-40; col. 5 lines 10-46
components establish the rules that control creation of a particular object]. Falls et al.
does not specifically disclose

"updating the computer system responsive to one selected from:

the first set of update information received; or the first set of update information
received and the second set of update information requested", however **Miller et al.**
teaches an information set user browser where a **"user can select all or one or more
components to be updated from a remote server"** [see: abstract; col. 2 lines 34-53;
col. 5 lines 47-67; also note "Information set viewer 285 provides a request to Update manager
Client 275 ... based on the flow of information indicated" col. 6 lines 58-67].

It would have been obvious to one of ordinary skill at the time of the invention to have
combined Miller et al. with Falls et al. because the information set viewer browser option
(i.e. ability to select updates) taught in Miller et al. would allow the user to have greater
control over which records should be updated or downloaded to the system.

Regarding claim 2, Falls et al. teaches "wherein the updating step comprises
deleting [note: modifications can be made such as deleting steps col. 9 lines 59-65].

Regarding claim 4, Falls et al. teaches "wherein the requesting step is additionally responsive to a size of an area into which update information may be stored [note: col. 9 lines 59-65 updated based on file size].

The limitations of claims 8, 9 and 11 parallel claims 1, 2 and 4; therefore they are rejected under the same rationale.

Allowable Subject Matter

9. Claims 19-21 are allowed.
10. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach a *holding area manager* as cited.

Response to Arguments

11. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ohran US Patent 6,609,183 B2

Waldin et al. US Patent 6,651,249 B2

Dickenson US Patent 6,738,799 B2

Ito et al. US Patent 6,654,769 B2

Waldin et al. US Patent Application No. 2003/0177485 A1

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greta Robinson
Primary Examiner

Greta Robinson
Primary Examiner
March 9, 2006